

JOHN GILBERT vs. APC NATCHIQ, INC.
CASE NO.: 3:03-CV-00174-RRB

DEPOSITION OF DOUGLAS L. SMITH
JUNE 1, 2006

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

JOHN GILBERT,

Plaintiff,

vs.

APC NATCHIQ, INC.

Defendants.

Case No. 3:03-CV-00174-RRB

DEPOSITION OF DOUGLAS L. SMITH
June 1, 2006

APPEARANCES:

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ALSO PRESENT:

MR. JOHN GILBERT

* * * *

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1 is it correct that the general organizational scheme
2 in the way of hierarchy in health and safety would be
3 there are safety specialists, safety supervisor, and
4 then you, and you title at that time, tell me again,
5 was safety.....
6 A I was hired as a safety manager which was a new
7 position for that organization.
8 Q Okay. I see.
9 A That -- that position did not exist prior to my
10 arrival.
11 Q Okay. Prior to your arrival, was there a corporate
12 safety man in Anchorage?
13 A There was a safety supervisor on site.
14 Q Okay.
15 A And that was Ron Kirk.
16 Q Okay. And then who would Ron -- who was Ron's direct
17 report I think is how you guys like to put it?
18 A Yeah, at that time Ron was a direct report to Gary
19 Buchanan as the safety supervisor in the department.
20 And.....
21 Q And was Gary.....
22 Athe specialists.....
23 Qin Anchorage or was Gary.....
24 A Gary -- Gary was Anchorage-based.
25 (Telephone ringing)

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1 Q Okay.
2 MS. ZOBEL: Do you need to take a.....
3 A No, I'm just turning it off. Sorry.
4 MS. ZOBEL: Okay.
5 A Gary was based on the Slope. He was the project
6 manager or contract business manager for the Kuparuk
7 contract. He was the operations manager.
8 Q Okay. And is that different than unit supervisor?
9 A Business unit manager, those guys have had a multitude
10 of titles. We refer to them as the contract manager
11 or business unit manager, and they were responsible
12 for the entire operational contract for APC at
13 Kuparuk.
14 Q So the safety supervisor would answer to Buchanan in
15 the unit manager or similar position?
16 A Yes, prior to my arrival, Ron Kirk reported to Gary
17 Buchanan.
18 Q And then was there a safety guy in Anchorage that was
19 higher up the food chain or not?
20 A Yes, there was a corporate safety manager. At that
21 time it was Scott Brower.
22 Q Okay. All right. Let's see, what did you do to
23 prepare for your deposition today, if anything?
24 A Came yesterday and just, you know, knowledge of the
25 events since I was present, but that's about it.

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1 Q Okay. Did you ever do an evaluation of the safety
2 specialist position to determine whether it was exempt
3 or non-exempt from overtime?
4 A Yes. The -- in fact, I had been involved in an
5 evaluation at a previous employer with that position.
6 And after I arrived at this company, we discussed the
7 position, exempt versus non-exempt. And one thing
8 that's important is that one of the things we worked
9 -- always worked against or was a bit of an issue is a
10 lot of positions, can (indiscernible) extra hours in
11 the specialist field around the country are being paid
12 in an exempt mode, so by us defining those as non-
13 exempt was -- we felt was correct with the
14 determination of the labor law, but was not exactly
15 industry standard. So we were always sort of with the
16 uphill battle to move these two hourly, not within the
17 company, but just as a general industry position. So
18 we evaluated the positions based on the -- the
19 Department of Labor checklist provided at the time,
20 and determined that these positions would were -- most
21 likely would be better suited to be under hourly
22 positions. And the guys who were having call-outs in
23 the evening and such, the nature of the embedded
24 employees, were being called out, so there was a move
25 to move them to hourly after I arrived there. But it

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1 took some time to change the contract language, put
2 the rates in, and effect the changed for the
3 specialists.
4 Q Okay. And did that then actually happen on or after
5 April of '03?
6 A It happened March 1st of '03 is when we finally got
7 the -- what we call employee information records, a
8 status change actually into payroll and changed the
9 specialist' pay rates to hourly was March 1 of '03.
10 Q And when did the guys in the field -- and we're
11 talking safety.....
12 A Specialists.
13 Qsupervisor here?
14 A Safety specialist.
15 Q Oh, okay. All right. Safety specialist. All right.
16 A And at the same time, we -- I evaluated personally
17 with Gary Buchanan the position that Ron Kirk had
18 previously held as safety supervisor. And it's
19 important to understand the chain.....
20 MS. ZOBEL: Let's.....
21 Aof progression.
22 MS. ZOBEL: Let's wait until he asks the
23 question.
24 A Yeah.
25 Q (By Mr. Covell) Okay.

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3 (Pages 6 to 9)

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1 A Yeah. Well, you were asking about which position
2 we're talking about. The safety supervisor position
3 was evaluated separate of the specialist. Only --
4 only the specialists were changed March 1st. I just
5 want to clarify that.
6 Q Okay. Was the safety supervisor eventually changed?
7 A No, the position was eliminated.
8 Q Okay. And what filled the void, if anything?
9 A There currently exists a position there now that's
10 called a safety coordinator, and does not have a
11 supervisory title. That is an hourly-based position.
12 Q Okay. And then your former job, does that still
13 exist, safety manager, if that's.....
14 A It does.
15 Qthe right -- okay. Okay. And when did the --
16 well, did the supervisor job go away contemporaneous
17 with the coordinator job arriving?
18 A There was a void of -- of no position for several
19 months prior to -- we had a staffing reduction, and
20 the job was eliminated. Several months it was vacant
21 before they recreated the coordinator position. That
22 was after my departure.
23 Q Okay. All right. So to summarize this, and correct
24 me if I'm putting it wrong, you and Mr. Buchanan at
25 some point began a review of safety specialists, and

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1 as of March 1 of '03 recategorized it as non-exempt,
2 in other words entitled to overtime is.....
3 A That's correct.
4 Q Okay. And then subsequent to that, or perhaps
5 parallel, but somewhat in a latter phase, you
6 evaluated safety supervisor, eliminated the position,
7 there's a two-month gap between safety supervisor and
8 safety coordinator, and created a safety coordinator
9 position that was entitled to overtime?
10 A Well, I need to clarify a few points.
11 Q Sure.
12 A One, the safety supervisor position.....
13 MS. ZOBEL: That's fine. Go ahead.
14 A Yeah, there's a few points you made that are not
15 correct.
16 MS. ZOBEL: Okay.
17 Q (By Mr. Covell) Okay.
18 A So a couple points of clarification. The safety
19 supervisor position was evaluated in parallel to the
20 specialist, whether it was exempt or non-exempt.
21 Q Okay.
22 A The supervisor position was eliminated as a force
23 reduction.
24 Q Okay.
25 A A budget reduction, and was vacant for a number of

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1 months, and I couldn't tell you exactly how many
2 unless I went and looked at records.
3 Q That's fine.
4 A But longer than -- longer than six months before we --
5 that job was refilled as a coordinator role and made
6 hourly.
7 Q Okay. Approximately when did the process of the
8 review begin if as to safety specialist it ended March
9 1, '03? You know, what it two months, six months, a
10 year and a half?
11 A The review started in '02, and from many of the notes
12 that you've already seen, it was being discussed
13 as early as February of '02.
14 Q Okay. And which notes are you referring to?
15 A Some of the notes that were reviewed yesterday where
16 John had related information to the specialist that
17 the hourly rates were being reviewed.
18 Q Okay. And you saw those notes yesterday?
19 A I did.
20 Q Okay. Besides the ones yesterday, is there any
21 written commemoration of your actions in conducting
22 the review of the safety specialist and/or safety
23 supervisor job for reclassification?
24 A I went to work there in December of '01, so they
25 started immediately after my arrival. And the

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1 information was being disseminated down from my
2 position to -- to John's position about the initiative
3 to review and possibly change these to hourly.
4 MS. ZOBEL: I think what he's looking for is
5 do you have any records that.....
6 A Not that I've been.....
7 MS. ZOBEL:have not been produced?
8 Aable to locate, no.
9 Q (By Mr. Covell) Let me be as hopefully direct and
10 clear as possible. What I envision is perhaps there's
11 a file folder that says, review of safety specialist
12 job for transfer from exempt to non-exempt, and there
13 being, you know, 2 or 10 or 50 papers in there.
14 A None that I have been able to locate.
15 Q Okay. When you were doing this process, did you
16 generate paperwork?
17 A No. And it was direct verbal conversation between
18 myself and Gary Buchanan.
19 Q Okay. So is it fair to say other than what you've
20 seen, you wouldn't expect there to be anything else in
21 the way of paperwork?
22 A Not that I can personally locate, no.
23 Q Okay. All right. That was easy, right? Okay. And
24 then prior to your arrival, are you aware of any
25 review or clas -- or review for appropriateness of

4 (Pages 10 to 13)

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1 exempt or non-exempt classification of the safety
2 supervisor position at APC?
3 A No.
4 Q Okay. You were at Kuparuk when the safety supervisor
5 was there and classified as exempt, right?
6 A No, it was exempt -- -- when -- when I arrived at the
7 position, the supervisory position was already being
8 paid at a day rate which was filled by Ron Kirk.
9 Q Well, Mr. Gilbert was a safety supervisor, right?
10 A He became Ron Kirk's alternate.
11 Q Okay. All right. And when he was in that job, he was
12 being classified and paid as an exempt employee,
13 right?
14 A Yes, he went into the job, and the job was already
15 established as an exempt position.
16 Q Okay. And you were his boss then?
17 A That's correct.
18 Q Okay. All right. What different duties did the
19 safety supervisor have when Mr. Gilbert was in that
20 position versus a safety specialist?
21 A In my opinion and in my observation, an expectation of
22 the job was that they were the coordinator of the
23 specialist, and in that role provided, you know, a
24 degree of oversight and direction to these embedded
25 employees. And then in my absence -- I worked a four-

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1 day on, three-day off schedule, and in my absence from
2 the Slope, they were the step-up for the department
3 and fill the roll of HSE manager in my absence.
4 Q Okay. So they were the coordinator of the other
5 specialists. These other specialists generally had --
6 I don't know if duty stations is the right word, but
7 generally had a routine set of work that they were
8 going to do, or expect to do, is that right?
9 A That's correct.
10 Q Okay. So a guy would have wash bay, or light duty
11 shop, or a pad or something to that effect?
12 A That's correct.
13 Q Okay. Would the safety supervisor do safety
14 specialist work routinely?
15 A Not routinely.
16 Q Okay. What safety specialist work would the safety
17 supervisor do?
18 A Probably the same as I would do, and that would be a
19 back-up for the field, if there be excess work,
20 someone off shift, in training, geographically not
21 available, because they're too far out to one site, so
22 we might respond to a scenario on their behalf.
23 Q Okay.
24 A And that would include myself as well.
25 Q Okay. So when a safety supervisor acted as the

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1 coordinator or the specialist, I mean, what physically
2 would he do that was coordinating them? Would he pick
3 up the phone and call people? Would he call meetings?
4 Would arrange their schedules? I mean, what types of
5 things?
6 A Schedule coordination, personnel coming and going,
7 trying to help work out vacation coverage by
8 scheduling other people to work over, providing
9 answers, you know, questions and answers both up the
10 chain of command with the client, with our people who
11 liaison, conduit of information flow.
12 Q Okay. And when you said answers questions, would that
13 generally be to the client, to Conoco-Phillips or
14 whoever was....
15 A Both sides, internal....
16 Q And what....
17 Aand external.
18 Q Internal to?
19 A APC.
20 Q APC upstairs. Was there a lot of questions that came
21 from the specialists to the safety supervisor?
22 A I think there was daily questions probably from each
23 of them of some type, and they vary in technical
24 nature. Some very simple and some technical.
25 Q Okay. Well, if you know, would they be along the

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1 lines that, you know, I'm busy on this pad, can you
2 come out and do this other test for me on the other
3 pad, or would they be more of the nature of, you know,
4 how do I run this meter? If you know,
5 A I think that the majority of the questions were more
6 technical in nature about how to execute on-the-job.
7 We had varying levels of specialists with different
8 levels of experience, and the supervisor was an
9 experienced -- more experienced position that had more
10 authoritative knowledge, technical knowledge, and was
11 oftentimes a reference for the specialist to conduct
12 business.
13 Q Could you give me an example of what that kind of
14 question would be?
15 A Yeah. I'm on the pad and I don't clearly understand
16 how to run this Ludlum meter, you know, can you help
17 me out over the phone, or come out and show me? I'm
18 running the snapshot, the gas chromatograph, I'm going
19 to need some assistance with that. Policy, maybe some
20 policy questions. What is our procedure or policy
21 regarding a particular subject matter.
22 Q Okay. As to policy and procedure, that was all in a
23 book which sounded like it was going under a never-
24 ending revision. Is that fair to say?
25 A There was a policy and procedure manual being revised,

5 (Pages 14 to 17)